

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
)  
Revision of the Commission's Rules )  
To Ensure Compatibility with )  
Enhanced E911 Emergency Calling Systems )  
)  
Phase II Compliance Deadlines for Non- )  
Nationwide CMRS Carriers )

CC Docket No. 94-102

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: Wireless Telecommunications Bureau, Policy Division

**CELLULAR SOUTH LICENSES, INC.**  
**PETITION FOR EXTENSION OF THE IMPLEMENTATION DEADLINE**  
**FOR PHASE II OF ENHANCED 911 SERVICES**

Cellular South Licenses, Inc. ("Petitioner"), by its attorney, hereby requests a temporary waiver of Section 20.18(g) of the Commission's rules and an extension of time of the same duration granted to other small, non-nationwide wireless carriers defined as "Tier III" carriers to implement Phase II of Enhanced 911 ("E911") services. In particular, Petitioner seeks a temporary waiver of the requirement that Commercial Mobile Radio Service ("CMRS") carriers selecting a handset-based Phase II E911 solution follow a phased in implementation schedule beginning October 1, 2001 or within six months of receiving a valid Public Safety Answering Point ("PSAP") request for Phase II implementation, whichever is later. As indicated below Petitioner has successfully implemented E911 Phase I services in much of its service area and currently is in communication with vendors of E911 Phase II hardware and software products. Despite good-faith efforts, it does not appear likely that Petitioner will be ready to meet the Phase II mandate in the time allocated in response to any valid Phase II request from a PSAP that is received prior to March 1, 2003. Other carriers have come to the same conclusion, and the

Commission granted a large number of similar requests. *Order to Stay*, 17 FCC Rcd 14841, released July 26, 2002 ("Extension Order"). Petitioner asks to be grouped with other Tier III carriers, as defined by the Extension Order, and afforded additional time to comply with the Phase II implementation requirements consistent with the terms of the Extension Order. Petitioner did not file a petition for extension at an earlier time because it had not received until recently any PSAP request for deployment of Phase II services. Two recent PSAP requests, which may not yet be valid under applicable Commission rules and decisions, caused Petitioner to review its compliance obligations and resulted in the filing of this petition. In support hereof, the following is respectfully shown:

### **I. Background**

Petitioner is a comparatively small provider of CMRS, offering services primarily in the south central region of the United States. As of the end of 2001, Petitioner had fewer than 500,000 customers and, as of this date, still has fewer than 500,000 customers. Petitioner thereby meets the definition of a Tier III carrier adopted by the Commission in the Extension Order.<sup>1</sup>

In an amendment to its Implementation Report, filed December 6, 2002, Petitioner explains that it now considers a handset-based Phase II E911 solution, consistent with Section 20.18(g) of the Commission's rules,<sup>2</sup> to be the most practical means to deploy Phase II services

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<sup>1</sup> Petitioner is aware that the Commission has invited public comments on whether the small business size standard that was adopted in the Extension Order is appropriate, or if another definition should be used. Public Notice, DA 02-2560, released October 7, 2002. In the Extension Order, the Commission defined Tier II, or mid-sized carriers, as those non-nationwide carriers with over 500,000 subscribers as of year-end 2001. Tier III carriers were defined as all other non-nationwide carriers. Petitioner submits that the small business size definition adopted in the Extension Order is appropriate under the circumstances.

<sup>2</sup> Telepak, Inc. filed the original implementation report concerning the licenses that are the subject of this petition. Telepak, Inc. is the parent company of Petitioner, and assigned its CMRS licenses to Cellular South Licenses, Inc. on April 25, 2001, as authorized by the Commission.

in much of its service area. Petitioner continues to study available Phase II location technology offerings to determine viable paths to compliance with the FCC Phase II performance requirements. These efforts are described below.

**A. Evaluation of existing technologies**

Petitioner provides wireless services using a combination of AMPS, TDMA and, most recently and in most areas, CDMA technologies. In some markets, such as in Mobile, Alabama, only TDMA technology is presently in use while in others, both AMPS and TDMA technologies are being used. Deployment of CDMA as an overlay of TDMA technology in portions of Petitioner's service area is part of an ongoing effort to adapt to current market conditions and allow for roaming in an environment where several larger wireless carriers have announced plans to discontinue use of TDMA technology.

Handset-based Phase II technology. Due to continuing efforts to overlay its TDMA markets with CDMA technology, Petitioner now considers a handset-based technology to be the most practical means to make available Phase II services in its operating areas. The anticipated limited availability of TDMA compatible handsets in the future makes it unlikely that a handset-based technology can be deployed successfully in any of Petitioner's service areas where TDMA technology is the only digital technology in use. It now appears that with a CDMA system in much of Petitioner's service area it will be more practical to plan for a Phase II E911 handset-based solution. To that end Petitioner has consulted with some of the major handset manufacturers, and determined that a handset approach will be more efficient. Petitioner continues to receive and is in the process of evaluating available products that would enable Petitioner to deploy a handset-based technology for Phase II.

## **B. The Path to Compliance**

Pctitioncr has shown good faith in meeting the Commission's E911 requirements by implementing Phase I services in nearly all counties served.' Where Phase I service is not yet operational, it is in progress and was delayed for reasons beyond Petitioner's control. Petitioner contracted with a specialized services firm, Somera (formerly Compass Telecom Services), to coordinate Phase I implementation plans with the PSAPs. In planning for Phase II deployment Pctitioner recently initiated a round of requests to appropriate vendors of hardware and software for their latest available product information. Petitioner will review all PSAP requests as they are received to evaluate PSAP readiness for Phase II and the most practical means for Petitioner to implement Phase II on a timely basis.

Pctitioner is in receipt of a Phase II E911 implementation request from the Mobile County Communications District ("MCCD") of Mobile, Alabama. Petitioner instructed its special contractor for Phase I E911 implementation to make inquiries of MCCD to determine if it is fully prepared to implement Phase II E911 services, and assist Petitioner in determining whether or not the MCCD request meets the objective criteria a PSAP must show to establish that the request is "valid" under the terms of Section 20.18(j) of the Commission's rules. It is unclear at this time whether MCCD has taken sufficient steps to assure that it will be able to receive and utilize the E911 data prior to the delivery of service by the carrier.

Petitioner is also in receipt of a Phase II deployment request from the Tennessee Emergency Communications Board ("TECB"), dated August 27, 2002, relating to all counties in

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A detailed, county-by-county list showing Phase I implementation status is attached to this petition

state of Tennessee that are served by Petitioner. Petitioner has requested the TECB to schedule its deployment of Phase II services in areas served by Petitioner in Tennessee to conform with the timetable requested herein, consistent with the extended deadlines granted by the Commission to other Tier III wireless carriers.

## II. Discussion

Generally, the Commission's rules may be waived when there is good cause shown<sup>4</sup> and "when special circumstances warrant deviation from the general rule, and such deviation will serve the public interest." In the context of **E911**, the Commission has recognized that individual waivers that are "specific, focused and limited in scope, and with a clear path to compliance" may be granted where due to "technology-related issues" or "exceptional circumstances," a wireless carrier is unable to meet the established deadline.<sup>5</sup> As explained below, Petitioner's request satisfies this standard.

First, Petitioner is presenting a waiver request that is specific, focused and limited in scope. The scope of the request is limited to Section 20.18(g) of the Commission's rules. Petitioner has made good faith efforts to comply with the other sections of Section 20.18 by implementing Commission's Phase I requirements throughout most of its served areas. Furthermore, Petitioner only seeks a temporary waiver as to any area for which it receives a valid PSAP request for Phase II deployment.

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<sup>4</sup> 47 C.F.R. § 1.3.

<sup>5</sup> Fourth MO&O at 17457; Northeast Cellular Telephone Co. v. FCC, R97 F.2d 1164, 1166 (D.C. Cir. 1990) citing WAT Radio V. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

<sup>6</sup> See id

Second, Petitioner's request is structured with a "clear path to compliance." Rather than request a "broad, generalized waiver" or an indefinite extension, Petitioner proposes the same phase-in schedule granted in the Extension Order at paragraph 33 to other Tier III carriers that will employ a handset-based location technology.

Third, Petitioner has faced technological issues that have hindered its progress. Specifically, the lack of commercially available handsets with Phase II location accuracy capability, useful with Petitioner's TDMA system where it has not yet installed CDMA as an overlay technology, has delayed Petitioner in its ability to deploy a Phase II solution. Grant of the requested waiver is in the public interest. The public policy behind the Commission's E911 rules is to meet important public safety needs as quickly as reasonably possible.<sup>8</sup> Allowing Petitioner to introduce important public safety needs on a more graduated schedule would serve this objective. Not only would a delay make it possible for Petitioner to provide superior location accuracy by waiting for the best possible solution, the proposed implementation schedule would have no appreciable effect on the availability of Phase II E911 in Petitioner's service area. Under these circumstances, the implementation timetable proposed herein allows for an efficient and sensible phase-in of Petitioner's Phase II solution.

#### **11. Conclusion**

For the reasons set forth above, Petitioner requests a temporary waiver of Section 20.18(g) of the Commission's rules consistent with extensions granted to Tier III carriers in the Extension Order. The public interest benefit in this case equals or exceeds that which the


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<sup>8</sup> See *id.*

Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and temporary extension be granted as proposed.

Respectfully submitted,

**CELLULAR SOUTH LICENSES, INC.**

By:   
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Its Attorney

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(202) 857-3500

December 17, 2002

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<sup>s</sup> See Fourth MO&O, 15 FCC Rcd at 17449

## DECLARATION

I, Tony Kent, hereby state and declare:

- 1 I am Vice President – Engineering and Network Operations of Telepak, Inc., the management company for Cellular South Licenses, Inc.
- 2 I ~~am~~ familiar with the facts contained in the foregoing petition, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts that are subject to official notice by the Commission

I declare under penalty of perjury that the foregoing ~~is~~ true and correct

Executed on this 13th day of December, 2002

  
\_\_\_\_\_  
Tony Kent



**E911 PHASE 1  
IMPLEMENTATION**

12/16/0210:28 AM

AREA	MS. COUNTY	# SITES	# SECTORS	SCHEDULED	COMPLETED	SWITCH	Owner
A	COVINTON	2	2	08/08/01 *	09/20/01	NORTEL	Jimmy Campbell
A	GEORGE	2	2	07/30/01	07/30/01	NORTEL	Robert Smith
A	LAMAR	4	6	08/02/01	08/02/01	NORTEL	Jimmy Campbell
A	MARION	2	3	08/08/01	08/13/01	NORTEL	Tim Dillon
A	PEARL RIVER	5	5	07130101	07/30/01	NORTEL	Robert Smith
A	WAYNE	1	1	08/08/01 *	07/31/01	NORTEL	Jimmy Campbell
B	ADAMS	3	3	08/06/01		NORTEL	Tim Dillon
B	AMITE	2	2	08/08/01	08/08/01	NORTEL	Tim Dillon
B	LINCOLN	5	7	08/07/01	09/20/01	NORTEL	Tim Dillon
B	PIKE	4	6	08/07/01	08/07/01	NORTEL	Tim Dillon
C	LOWNDES	5	7	08/14/01	08/14/01	NORTEL	Matt Egger
C	LEE	9	27	08/13/01		LUCENT	Mike Morrow
D	BOLIVAR	4	6	08/16/01	08/22/01	NORTEL	Del Davis
D	COAHOMA	1	3	08/16/01	08/17/01	NORTEL	Del Davis
D	DESOTO			04/19/02	04/19/02	LUCENT	Mike Morrow
D	TUNICA	1	1	04/18/02	04/18/02	LUCENT	Jason Roy
D	LAFAYETTE	5	6	08/13/01	09/18/01	NORTEL	Jason Roy
D	LEFLORE	3	5	08/13/01	08/13/01	NORTEL	Del Davis
D	PANOLA	2	4	08/14/01	08/14/01	NORTEL	Jason Roy
D	SUNFLOWER	2	4	08/13/01	08/14/01	NORTEL	Del Davis
D	WASHINGTON	6	11	08/15/01	08/15/01	NORTEL	Del Davis
D	YAZOO	4	4	08/15/01	08/15/01	NORTEL	Don Gregory
M	STONE	2	2	01/02/02	01/02/02	NORTEL	Robert Smith
J	CLARKE	2	4	08/02/01	08/02/01	LUCENT	Jimmy Campbell
J	COPIAH	5	13	08/06/01	08/06/01	LUCENT	Tim Dillon
J	COVINGTON	1	3	08/01/01	08/01/01	LUCENT	Jimmy Campbell
J	GRENADA	3	8	08/13/01	08/13/01	LUCENT	Chap Brown
J	HINDS	17	51	08/6 & 08/7/01	09/17/01	LUCENT	Don Gregory
J	HOLMES	3	7	08/15/01	08/15/01	LUCENT	Don Gregory
J	JASPER	5	10	07/31/01		LUCENT	Jimmy Campbell
J	LAUDERDALE	9	25	08/02/01	08/22/01	LUCENT	Jimmy Campbell
J	MADISON	17	50	08/8 & 08/9/01	08/08/01	LUCENT	Don Gregory
J	MONTGOMERY	5	12	08/13/01	08/23/01	LUCENT	Chap Brown
J	NEWTON	4	8	08/20/01	08/20/01	LUCENT	Don Gregory
J	RANKIN	15	43	08/13 & 08/14/01	08/14/01	LUCENT	Don Gregory
J	SCOTT	3	7	08120101	01/02/02	LUCENT	Don Gregory
J	SIMPSON	4	10	08/01/01	08/01/01	LUCENT	Jimmy Campbell
J	WARREN	4	12	08/21/01	08/23/01	LUCENT	Don Gregory
M	HARRISON			10/22/02	IN PROGRESS	NORTEL	Buck Smith
M	HANCOCK			10122102	IN PROGRESS	NORTEL	Buck Smith
M	JACKSON			10/22/02	IN PROGRESS	NORTEL	Buck Smith
AREA	Tn. COUNTY	# SITES	# SECTORS	SCHEDULED	COMPLETED	SWITCH	Owner
E	SHELBY			11/02/01	12/06/01	LUCENT	Mike Morrow
E	FAYETTE			11/02/01	12/06/01	LUCENT	Mike Morrow

## 12/16/02 10:28 AM

Information to verify during test call to PSAP.